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PAAB

# PROPERTY ASSESSMENT APPEAL BOARD
# FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2019-029-00124R

Parcel No. 10-14-200-006

**Sharon Mae Taeger,**

Appellant,

vs.

**Des Moines County Board of Review,**

Appellee.

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## Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on February 7, 2020. Sharon Taeger was self-represented. Des Moines County Attorney Todd Chelf represented the Board of Review.

Sharon Taeger owns property located at 13037 Highway 61, Burlington, Iowa. The property's January 1, 2019, assessment was set at $212,800, allocated as $70,500 in land value and $142,300 in dwelling value. The property was reclassified from agricultural to residential for the 2018 assessment and remained residential for the 2019 assessment. (Ex. A).

Taeger petitioned the Board of Review and claimed the property was misclassified as residential under Iowa Code section 441.37(1)(a)(3). (Ex. C). The Board of Review denied the petition. (Ex. B).

Taeger appealed to PAAB reasserting her claim the property is misclassified. She believes the property should be classified agricultural.

## General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2019). PAAB is an agency and the provisions of the Administrative Procedure Act apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code Rule 701-126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a).

## Findings of Fact

The subject property is a 7.770-acre site with a one-story home built in 1970. The home has 1322 square feet of gross living area with 850 square feet of low-quality basement finish. There is a two-car attached garage, a small open porch, a concrete stoop, and a 600 square-foot concrete patio. The dwelling is listed in below normal condition. (Ex. A). 44% physical depreciation has been applied to the dwelling and garage. The property is also improved with a small shed and two steel utility buildings; one with 2160 square feet and one with 1600 square feet. Both have electricity and steel slide doors; one is also heated and insulated. There is also a large pond and a tree covered area on the parcel. (Ex. K).

The subject property had consisted of slightly more than 10 acres but in 2016 the Iowa Department of Transportation (IDOT) took 2.36 acres for the purpose of widening US Highway 61. Taeger asserts this prompted the change in classification to residential because her site is now less than ten acres in size. Subsequently, her land value, which was $12,000 in 2017 and $39,800 in 2018, has since increased to $70,500 for 2019. She testified her property had an agricultural classification for 50 years and, despite the reduction in her site size, should be grandfathered in to that classification. She stated

Edward Greenman with IDOT told her the State's purchase of a portion of her land should not create a problem with her classification.

An aerial photograph of the subject property shows what appear to be row crops along the highway. (Ex.K ). Taeger testified she continues to rent a portion of her ground to a nearby farmer who grows corn or beans. Before the sale to IDOT, she rented about 6 acres of her site in exchange for $800, but now only about 3 acres are cropped and she estimates this year her rent will be less, perhaps $300.

Taeger does not participate in any farm programs and does not know if she files a Schedule F. In the past she had horses, but does not now. She is a retired widow and her utility buildings were previously used as a workshop for a racing operation. She now stores lawn tractors, snow blowers, and other items there.

Des Moines County Assessor Matt Warner testified on behalf of the Board of Review. He stated a commercial and residential reappraisal was completed in 2018 and his office also reviewed classifications of properties at that time. In 2018 about 20 parcels were reclassified from agricultural to residential. In 2019 classifications changed on about 150 parcels. He indicated other properties' classifications were changed from residential to agricultural.

Warner provided the guidelines he uses for agricultural classifications and specifically noted no Iowa Code or Regulation provides for a ten-acre rule to qualify for agricultural classification. (Ex. D). Rather, property is classified based on its primary use. He testified the sale of a portion of Taeger's land was not the basis for the reclassification, but rather was coincidental to the timing of the review. Warner's testimony indicated he believed the property's primary use was residential, even prior to the sale. He testified that prior to the land sale, the majority of the property was used for residential purposes and the agricultural income was insignificant when compared to the residential use. In his opinion, roughly 2.3-acres are used for crop and 5.4-acres are for residential use. He believes the property has been misclassified agricultural for many years. Warner also noted another property along the Highway 61 corridor of similar size to Taeger's, with minimal crop production, also changed from agricultural to residential classification.

The Board of Review submitted six comparable properties that have recently sold. (Ex. E-J). Without going into detail about those properties, we note two of the comparables have more than ten acres and are residentially classified. (Ex. F, H).

## Analysis & Conclusions of Law

Taeger asserts the subject property is misclassified as residential and should instead be classified agricultural.

Iowa assessors are to classify and value property following the provisions of the Iowa Code and administrative rules adopted by the Iowa Department of Revenue (IDR) and must also rely on other directives or manuals IDR issues. Iowa Code §§ 441.17(4), 441.21(1)(h). IDR has promulgated rules for the classification and valuation of real estate. *See* Iowa Admin. Code r. 701-71.1. The assessor shall classify property according to its present use. *Id*. Classifications are based on the best judgment of the assessor exercised following the guidelines set out in the rule. *Id*. Boards of Review, as well as assessors, are required to adhere to the rules when they classify property and exercise assessment functions. *Id*. There can be only one classification per property, except as provided for in paragraph 71.1(5) "b". *Id*. The determination of a property's classification "is to be decided on the basis of its primary use." *Sevde v. Bd. of Review of City of Ames*, 434 N.W.2d 878, 880 (Iowa 1989). The assessment is determined as of January 1 of the year of the assessment. §§ 428.4, 441.46; Iowa Admin. Code R. 701-71.2.

Particularly when not previously adjudicated, a property's prior classification is not conclusive and binding in subsequent years because each "tax year is an individual assessment which does not grow out of the same transaction." *Cott v. Bd. of Review of City of Ames*, 442 N.W.2d 78, 81 (1989). See also § 441.21(3)(b)(3). Because the subject property's classification has not been previously adjudicated, there is no presumption that the previous classification is correct. Rather, Taeger bears the burden to prove her property is misclassified. § 441.21(3). *See also Miller v. Property Assessment Appeal Bd*., 2019 WL 3714977 at *2 (Iowa Ct. App. Aug. 7, 2019).

Residential property "shall include all land and buildings which are primarily used or intended for human habitation." R. 701-71.1(4). This includes the dwelling as well as structures used in conjunction with the dwelling, such as garages and sheds. *Id*.

Agricultural property includes land and improvements used in good faith primarily for agricultural purposes. R. 701-71.1(3). Land and nonresidential improvements

> shall be considered to be used primarily for agricultural purposes if its principal use is devoted to the raising and harvesting of crops or forest and fruit trees, the rearing, feeding, and management of livestock, or horticulture, all for intended profit." Agricultural real estate shall also include woodland, wasteland, and pastureland, but only if that land is held or operated in conjunction with agricultural real estate as defined in the subrule.

*Id*.

The aforementioned classification rules contain no minimum or maximum size requirement for agricultural classification.[1] PAAB has previously granted agricultural classification to a 2.20-acre site improved with a residence that was also intensively used for fruit and vegetable and livestock production in good faith for intended profit. *Mays v. Muscatine Cnty. Bd. of Review*, PAAB Docket No. 2017-070-10175R (March 23, 2018). In *Brotherton v. Dallas County Board of Review*, PAAB considered the correct classification of two properties totaling 6.4-cares that contained residences and were also used for row crop farming. PAAB Docket Nos. 2017-025-00287R & 2017-025-00301R (Oct. 11, 2017). In that case, the majority of the property, approximately 4.5 of the 6.4 acres, was used for farming and produced $650 in annual rent. PAAB found Brotherton's properties qualified as agricultural real estate. Conversely, PAAB has found rural residential properties in excess of ten acres did not qualify as agricultural in other instances where the taxpayer failed to demonstrate any agricultural use was done with an intent to profit. *Miller v. PAAB,* 2019 WL 3714977 (Iowa Ct. App. Aug 7, 2019); *Reinboldt v. Cedar County Board of Review*, Docket No. 2019-016-00042R (October 21, 2019); *Shaw v. Dallas County Board of Review*, Docket No. 2018-025-00091R (May 30, 2019).

[1] The confusion around a 'ten acre rule' possibly stems from the agricultural land tax credit which defines agricultural lands as "tracts of ten acres or more…used for agricultural or horticultural purposes. Iowa Code § 426.2. However, the classification rules contain no such requirement.

In applying the classification rules, we look at the unique facts of each case in order to determine the property's primary use and correct classification. Here, the subject property is used as a residence for Taeger and the yard and pond provide a recreation area for her and her family members. The utility buildings also provide storage for her possessions. Approximately one-third of the acreage is used for row crops by a neighboring farmer who compensates Taeger approximately $300 annually. With two separate uses of her property, we must be convinced that the agricultural purpose is the property's primary use.

We find the subject parcel's agricultural use is incidental to its primary use as a residential property. Prior to the IDOT land sale, the physical use of the site for agricultural purposes slightly exceeded the residential use. After the land sale, roughly 2-3 acres are now used for row crop farming and the majority of the site is used for residential purposes. The testimony indicated the outbuildings are primarily used for storage of personal items, not agricultural-related equipment, machinery, or supplies. These factors weigh against classifying the property as agricultural. Acknowledging the subject does generate some income from its agricultural use, we do not believe the use or the income generated therefrom make it the primary use of the property when, as whole, the record indicates the primary use of the property is residential.

We understand Taeger's frustration with her change in classification after so many years, but we agree with the Board of Review that she has not demonstrated her property is primarily used for agricultural purposes with an intent to profit. Viewing the record as a whole, we find Taeger failed to support her claim that the subject property is misclassified.

## Order

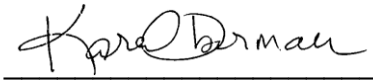
PAAB HEREBY AFFIRMS the Des Moines County Board of Review's action.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A.

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB

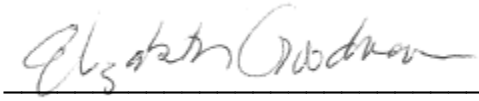
administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.19 (2019).



Karen Oberman, Board Member

Dennis Loll, Board Member



Elizabeth Goodman, Board Member

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